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Promoción y protección de todos los derechos humanos, civiles, políticos, económicos, sociales y culturales, incluido el derecho al desarrollo

Seguimiento de las recomendaciones formuladas por el Grupo de Trabajo sobre las Desapariciones Forzadas o Involuntarias en el informe sobre la visita que realizó a Kirguistán del 25 al 30 de junio de 2019

Informe del Grupo de Trabajo sobre las Desapariciones Forzadas o Involuntarias*

Resumen

En el presente informe figura la información facilitada por el Gobierno de Kirguistán, las autoridades, la sociedad civil y otras partes interesadas acerca de las medidas de seguimiento de las recomendaciones formuladas por el Grupo de Trabajo sobre las Desapariciones Forzadas o Involuntarias tras la visita que realizó al país en 2019^a.

En el párrafo 7 a) de su resolución 7/12, el Consejo de Derechos Humanos rogó a los gobiernos que hubieran aceptado visitas del Grupo de Trabajo que prestaran toda la atención necesaria a las recomendaciones del Grupo de Trabajo y los invitó a informar al Grupo de Trabajo de las medidas que adoptaran al respecto. El Consejo reiteró esta petición en el párrafo 16 a) de su resolución 21/4.

El formato actual de los informes de seguimiento tiene por objeto facilitar la identificación de las medidas concretas adoptadas en respuesta a las recomendaciones específicas y reflejar la información recabada de las distintas partes interesadas que participen en el proceso, a partir de lo cual el Grupo de Trabajo formula sus observaciones sobre el nivel de aplicación de sus recomendaciones.

El Grupo de Trabajo sigue ofreciendo su asistencia a los Gobiernos que hayan recibido una visita para cumplir las recomendaciones que se les haya formulado, y está dispuesto a ayudarlos en sus esfuerzos por prevenir y combatir las desapariciones forzadas.

^a Véase [A/HRC/45/13/Add.2](#).

* El resumen del presente informe se distribuye en todos los idiomas oficiales. El informe propiamente dicho, que figura en el anexo, se distribuye únicamente en el idioma en que se presentó y en ruso.



Anexo

Seguimiento de las recomendaciones formuladas por el Grupo de Trabajo sobre las Desapariciones Forzadas o Involuntarias en el informe sobre la visita que realizó a Kirguistán del 25 al 30 de junio de 2019

1. On 22 December 2022, the Working Group on Enforced or Involuntary Disappearances requested the Government of Kyrgyzstan to provide information on measures taken to implement the recommendations that were made in its report following its visit to the country in June 2019.¹ The Working Group thanks the Government of Kyrgyzstan for the information submitted on 14 March 2023.
2. At its 130th session, the Working Group decided to postpone consideration of the follow-up report due to lack of sufficient input from other relevant stakeholders.² The Working Group thanks all stakeholders who submitted information for its consideration for the present report.
3. Based on the information provided, the Working Group finds that while Kyrgyzstan has taken steps to implement the recommendations made in the report after its visit to the country, they have been insufficient to produce any significant changes.

Legislative and institutional framework

4. Since the visit of the Working Group in 2019, Kyrgyzstan has undergone significant legislative reform. In 2021, following the adoption of the new Constitution, the parliament adopted the new Criminal Code, which includes article 404 on enforced disappearance.
5. The legislative reform process provided a unique opportunity to implement the recommendation of the Working Group to broaden the scope of application of provisions criminalizing enforced disappearance. However, the drafting process took place behind closed doors and seemingly did not take the Working Group's recommendation into account. As a result, the definition of enforced disappearance in the new Criminal Code remains unchanged and overly restrictive; it only covers cases where there is an intention of the perpetrator to remove a person from the protection of the law for a prolonged period of time.
6. Failure to implement the Working Group's recommendations does not contribute to the eradication of the previously noted practice of alleged enforced disappearance that resulted from delays in the registration of arrested persons and notification of their relatives and defence lawyers, as well as other instances in which the disappeared persons eventually reappeared.³ Furthermore, non-application of article 404 of the Criminal Code to such enforced disappearances not only deprives the victims of criminal law remedies, but also creates an impression that enforced disappearance is not an issue in Kyrgyzstan, as evidenced by the fact that no cases of enforced disappearance were registered or investigated between 2019 and 2022.
7. The Government of Kyrgyzstan has not provided any statistical information concerning investigations into cases in which families have not been notified, or in which registration records of deprivation of liberty have been falsified, which makes it difficult to assess the level of implementation of the relevant recommendation.
8. The Working Group is concerned about the procedure of "pre-investigative examination". According to article 153 of the Code of Criminal Procedure, upon receipt of a crime report, the investigator or prosecutor has 10 days to decide whether to launch an investigation or not. It is a "grey area" period, during which procedural guarantees do not extend to the victim, who until the launch of the investigation is considered a witness, and

¹ See [A/HRC/45/13/Add.2](#).

² [A/HRC/WGEID/130/1](#), para. 44.

³ [A/HRC/45/13/Add.2](#), para. 12.

thus investigative actions cannot be undertaken. As the law gives investigators and prosecutors the discretion to decide whether to register the case or not, it implies that instances of enforced disappearance may not be investigated.

9. The Working Group notes with concern that the level of implementation of recommendations of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, made following its visit in 2018, remains very low, with only 11 per cent of 73 recommendations being partially implemented, 56 per cent in the process of implementation and 30 per cent not implemented. The Working Group is alarmed by what seems to be a trend of disregard towards recommendations formulated by international human rights mechanisms and calls on the Government of Kyrgyzstan to redouble its efforts and undertake effective measures to live up to its international obligations.

10. Even more concerning is the categorical statement of the Government of Kyrgyzstan (as contained in the government response of 14 March 2023) that it will not ratify the International Convention for the Protection of All Persons from Enforced Disappearance due to its irrelevance, because no criminal cases related to enforced disappearance have been registered or investigated in recent years. In that regard, the Working Group would like to stress the preventative nature of the Convention, which makes it relevant even for States where enforced disappearances are not widespread or are non-existent.

11. One of the ways to accurately assess the situation of enforced disappearance in Kyrgyzstan would be to amend article 404 of the Criminal Code by broadening the scope of its application to include all acts of enforced disappearance, irrespective of any temporal element. Ratification of the International Convention for the Protection of All Persons from Enforced Disappearance, with recognition of the competence of the Committee on Enforced Disappearances to receive and examine individual and inter-State complaints, pursuant to articles 31 and 32 of the Convention, would ensure that there is independent, international oversight and assessment of the country's compliance with the prohibition of enforced disappearance and its obligations to investigate such acts and prosecute those responsible.

12. The Working Group welcomes the reported efforts of the Government of Kyrgyzstan to provide training on enforced disappearance to legal professionals. At the same time, the Working Group stresses that, to be effective, such training should be based on an internationally recognized definition of enforced disappearance, on the Working Group's general comments and the jurisprudence of the Committee on Enforced Disappearances.

13. The Working Group welcomes the efforts made by the Government of Kyrgyzstan to ensure that the guarantees of notification and registration following apprehension of an individual are systematically implemented in practice, in particular by providing training and awareness-raising activities on those guarantees to legal professionals, law enforcement officials and the public, and by extending video registration of any detentions. At the same time, the Working Group is concerned about the effectiveness of informing law enforcement officials that delays in notifications and the falsification of detention records may amount to the crime of enforced disappearance, in the light of the above-mentioned shortfalls in the definition of enforced disappearance in article 404 of the Criminal Code. The risk of being prosecuted under this article is very low, unless such delays last "for a long period of time".

14. As concerns the investigations, the Working Group notes that in accordance with article 159 of the Code of Criminal Procedure, investigation of acts of enforced disappearance falls within the competence of the State Committee for National Security. However, pursuant to article 35 of the Code of Criminal Procedure, in exceptional cases the prosecutor can reassign the investigation to a different investigator, which leaves a wide margin of discretion.

15. The Working Group reiterates its recommendation concerning the enforceable right for victims of enforced disappearance to receive full reparation, including compensation, satisfaction, restitution, rehabilitation and guarantees of non-repetition, which has not been implemented.

Enforced disappearances in the context of the inter-ethnic violence in 2010

16. The Working Group commends the information provided by the Government of Kyrgyzstan on the status of search activities for those who disappeared during the inter-ethnic violence in 2010, investigations into those events and prosecution of those responsible.

17. The information provided, however, is of a statistical nature and the Working Group cannot therefore assess whether the investigations and search activities have been conducted pursuant to international standards, including the Guiding Principles for the Search for Disappeared Persons.⁴

Non-refoulement

18. Kyrgyzstan acceded to the Convention relating to the Status of Refugees and its 1967 Protocol in 1996. In 2002, Kyrgyzstan passed the Law on Refugees, which enshrines the principle of non-refoulement regarding refugees and asylum-seekers.⁵ According to the Government of Kyrgyzstan, the Office of the Prosecutor General and the Ministry of the Interior conduct numerous training exercises and workshops on a regular basis on various topics, including on the principle of non-refoulement.

19. The Working Group welcomes the reported efforts of the Government of Kyrgyzstan to ensure the effective implementation of the principle of non-refoulement and on raising the awareness of public officials.

20. At the same time, the information received indicates that the relevant recommendations regarding the practice of non-refoulement are far from being implemented, especially in the light of reports of the extradition, based on bilateral agreements, of asylum-seekers to neighbouring and other States, where the persons concerned may be at risk of enforced disappearance. In addition to the threats of torture, persecution and other human rights violations in the countries to which asylum-seekers have been extradited, there are worrying reports that, prior to being extradited, some asylum-seekers were subjected to enforced disappearance in Kyrgyzstan.

21. The Working Group expresses its grave concern at such reports, recalls the absolute nature of the prohibition of enforced disappearance and recommends the prompt adoption of effective measures to ensure that, prior to extradition or expulsion, the persons concerned have access to all guarantees to determine the lawfulness of their extradition or expulsion, and to raise their concerns about the danger of enforced disappearance upon their refoulement.

⁴ CED/C/7.

⁵ See <https://cbd.minjust.gov.kg/999/edition/1251503/ru>, article 12 read in conjunction with article 1 (in Russian).

Follow-up to the recommendations made by the Working Group on Enforced or Involuntary Disappearances following its visit to Kyrgyzstan from 25 to 30 June 2019

| Recommendations ^a | Situation during the visit ^b Measures taken/current situation | Level of implementation and observations (to be completed by the Working Group on Enforced or Involuntary Disappearances) |
|---|---|--|
| <p>45. (a) Ratify the International Convention for the Protection of All Persons from Enforced Disappearance as soon as possible and thereby expressly recognize the competence of the Committee on Enforced Disappearances, in accordance with articles 31 and 32 of the Convention;</p> | <p>The Working Group recommends that the Government of Kyrgyzstan:</p> <p>(a) According to the automatic information system of the unified register of crimes of the Office of the Prosecutor General of Kyrgyzstan, no criminal cases of enforced disappearance were registered or investigated between 2019 and 2022;</p> <p>(b) In that regard, the Government believes that ratification of the International Convention for the Protection of all Persons from Enforced Disappearance is irrelevant.</p> <p>Office of the United Nations High Commissioner for Human Rights (OHCHR) Regional Office for Central Asia</p> <p>The Regional Office for Central Asia does not have information that Kyrgyzstan is considering the ratification of the Convention for the Protection of All Persons from Enforced Disappearance.</p> <p>Public foundation Spravedlivost</p> <p>Reportedly, the ratification of the Convention for the Protection of All Persons from Enforced Disappearance is being considered and is included in the work plan for 2023 of the Coordinating Council on Human Rights, which is attached to the Cabinet of Ministers. In that regard, it should be noted that, taking into account the proposals received by members of the Council that Kyrgyzstan ratify the Convention, the State Committee for National Security had previously consented to accede to the Convention, with a reservation to the provisions of article 42, paragraph 1, regarding the possibility of settling</p> | <p>The recommendation has not been implemented. Since the presentation of the Working Group's report in 2020,^c Kyrgyzstan has not undertaken any significant steps towards the ratification of, or accession to, the International Convention for the Protection of All Persons from Enforced Disappearance. Furthermore, the position of the Government has been changing over time – from considering the option to ratify the Convention in 2020,^d to concluding that the ratification was irrelevant in 2023, as shown by the information provided by the Government.</p> <p>The Working Group reiterates its recommendation to ratify the Convention as soon as possible and thereby expressly recognize the competence of the Committee on Enforced Disappearances, in accordance with articles 31 and 32 of the Convention.</p> |

| Recommendations ^a | Situation during the visit ^b | Measures taken/current situation | Level of implementation and observations (to be completed by the Working Group on Enforced or Involuntary Disappearances) |
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| (b) Ensure that enforced disappearance of any duration, including short-term enforced disappearance, is criminalized; | Paragraphs 16–20 | <p>disputes between two States parties by reference to the International Criminal Court, and not recognizing the competence of the Committee on Enforced Disappearances under articles 31 and 32.</p> <p>Other</p> <p>(a) In the combined eleventh and twelfth periodic reports submitted by Kyrgyzstan under article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination, the Government noted that accession to the Convention for the Protection of All Persons from Enforced Disappearance was currently under consideration and that the Convention was included in the 2023 work plan of the Coordinating Council on Human Rights;</p> <p>(b) There is no official information on the progress and results of the implementation of the work plan.</p> <p>Other</p> <p>(a) The Government has not taken any action with regard to ratifying the Convention;</p> <p>(b) In the 2021 Criminal Code, article 404 provides for the definition of enforced disappearance and notes that it is punishable by a prison sentence of 12 to 15 years.</p> <p>Government</p> <p>Article 404 of the Criminal Code of 2021 criminalizes enforced disappearance and envisages criminal responsibility in the form of deprivation of liberty for a period of 12 to 15 years.</p> <p>Public foundation “Spravedlivost”</p> <p>The recommendation has been partially implemented. According to article 404 of the Criminal Code, enforced disappearance, namely the arrest, detention or abduction of persons by the State or a political organization, or upon their permission, with their support or consent, with a subsequent refusal to recognize such deprivation of</p> | <p>The recommendation has not been implemented. Even though the new Criminal Code was adopted after the Working Group’s visit to Kyrgyzstan, no changes have been made to the provisions criminalizing enforced disappearance. The legislation in force still includes among the constitutive elements of the crime “the intention to place the disappeared person outside the</p> |

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| | <p>liberty, or to report the fate or whereabouts of such persons for the purpose of depriving them of the protection of the law for a long period of time, shall be punished by imprisonment for a term of 12 to 15 years.</p> <p>Other</p> <p>(a) On 28 October 2021, the new Criminal Code came into force, following the adoption of the Constitution on 5 May 2021 through a referendum. Three new codes were developed in a rushed and non-inclusive manner, starting at the beginning of 2021;</p> <p>(b) The crime of enforced disappearance in the Criminal Code of 2021 remains identical to the previous Code of 1 January 2019, which only criminalizes long-term enforced disappearances;</p> <p>(c) Article 404 of the revised Code covers different modes of participation in acts of enforced disappearance, such as committing, ordering, soliciting, organizing, instigating the commission of and attempting to commit the crime, and no statute of limitations applies for the crime;</p> <p>(d) According to the Law on the Bases of Amnesty and the procedure for its application, amnesties are not permitted for the crime of enforced disappearance.</p> <p>Other</p> <p>The Criminal Code of Kyrgyzstan was amended in 2021 and 2023. However, article 404 remains unchanged and still criminalizes only long-term enforced disappearance.</p> | <p>protection of the law for a prolonged period of time”.</p> <p>The definition of enforced disappearance contained in article 404 of the Criminal Code is narrower than those in the Convention for the Protection of All Persons from Enforced Disappearance and in the Declaration on the Protection of all Persons from Enforced Disappearance.</p> <p>The Working Group notes that the existing definition of enforced disappearance leads to various negative outcomes, including a lack of clarity on what the duration of a “long period of time” is, and the failure to acknowledge as enforced disappearance several offences, only because the deprivation of liberty and the failure to acknowledge it would last too short a time. That, in turn, determines the exclusion of a significant number of victims of enforced disappearance from the right to criminal remedies.</p> <p>The fact that no cases of enforced disappearance were registered or investigated between 2019 and 2022 (which, according to the Government’s response above, was one of the reasons to conclude that the ratification of the Convention was irrelevant), may to some extent be explained by the fact that only enforced disappearances lasting “for a long period of time” are criminalized and other instances are not investigated as enforced disappearance.</p> |

| Recommendations ^a | Situation during the visit ^b | Measures taken/current situation | Level of implementation and observations (to be completed by the Working Group on Enforced or Involuntary Disappearances) |
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| (c) Provide training on enforced disappearance to legal professionals; | Paragraphs 18, 31, 33 | <p>Government</p> <p>(a) The centre for the professional training of prosecutors and investigators within the Office of the Prosecutor General conducts training exercises and workshops on a regular basis on various topics, including on enforced disappearance;</p> <p>(b) Also, the educational facilities of the Ministry of the Interior teach an educational discipline “criminal/law enforcement intelligence” for all categories of students, which includes classes on the topic “organization and tactics of the search for criminals and disappeared persons and identification of corpses”.</p> <p>Other</p> <p>(a) The bar, the judiciary, the prosecution, the Ministry of the Interior and the State Committee for National Security have their own education centres, through which they run professional development and training courses;</p> <p>(b) There is no information on whether the curricula of these centres include issues related to enforced disappearance.</p> <p>Other</p> <p>There are no legal practitioners, law enforcement agencies or lawyers working on this topic, nor have any such training courses been conducted. Education and training on international mechanisms and human rights topics are generally carried out by human rights defenders and international organizations.</p> | <p>The recommendation has been partially implemented.</p> <p>The Working Group notes that the relevant infrastructure exists to provide training on enforced disappearance to legal professionals. It is provided to prosecutors and investigators through specialized centres and educational facilities. However, there is no information on the curricula of the training or its content.</p> <p>The Working Group is concerned that human rights defenders and international organizations are not involved in designing the training courses. Furthermore, the lack of case law and law enforcement practice on enforced disappearance may result in a superficial study of the subject.</p> <p>Furthermore, given that the Criminal Code contains a definition of enforced disappearance that is not in line with international human rights law, the training courses provided are probably not in line with the relevant international human rights standards.</p> |
| (d) Reassign the function of investigating enforced disappearances and cases of torture from the State Committee for National Security to a law enforcement agency; | Paragraphs 4, 20, 30 | <p>Government</p> <p>(a) According to article 159.5 of the Code of Criminal Procedure of Kyrgyzstan as amended in 2021, investigation of crimes against the peace and security of mankind, including enforced disappearances, is carried</p> | <p>The Working Group notes that according to article 159 of the Code of Criminal Procedure, acts of enforced disappearance fall within the competence of the State Committee for National Security. The Working Group notes that according to article 35 of the Code, in exceptional cases the</p> |

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| | <p>out by investigators from prosecutors' offices and the national security authorities;</p> <p>(b) Furthermore, in accordance with article 35 of the Code of Criminal Procedure, in the course of criminal proceedings, prosecutors are authorized to initiate a criminal case; assign or transfer criminal cases in line with investigative jurisdiction to an investigator, or group of investigators, or to a lower-rank prosecutor, in exceptional cases – irrespective of investigative jurisdiction.</p> <p>OHCHR Regional Office for Central Asia</p> <p>(a) According to the amendments to the 2021 Code of Criminal Procedure of 26 July 2023, under article 159 (investigative jurisdiction), enforced disappearances are to be investigated by the State Committee for National Security. The same amendments also authorize the State Committee to investigate torture, allegedly committed by staff of the Ministry of the Interior, and authorize the Office of the Military Prosecutor to investigate torture, allegedly committed by the staff of the State Committee for National Security or of the armed forces;</p> <p>(b) According to reports by non-governmental organizations (NGOs) to the treaty bodies, the investigative department of the State Committee for National Security remains ineffective in investigating cases of torture, due to a lack of trained personnel, a lack of specialization of the criminal investigators attached to the Committee, and the absence of interdepartmental control within the Committee over investigations into torture. At the same time, prosecutors who still have powers to oversee the legality of criminal investigations, including those conducted by the Committee in cases of torture, do not appear to perform their functions in a proactive manner;</p> <p>(c) After the adoption of the new Code of Criminal Procedure in 2021, a pre-investigative check – an extra stage of pretrial proceedings – was reintroduced (as was</p> | <p>prosecutor can reassign the investigation to a different investigator, which gives the prosecutor a wide margin of discretion.</p> <p>The Working Group is further concerned by the pre-investigative check under article 153 of the Code of Criminal Procedure, introduced in 2021. As it gives law enforcement investigators time to look into cases before registering them, it implies that instances of enforced disappearance may not be investigated.</p> |

| <i>Recommendations^a</i> | <i>Situation during the visit^b</i> | <i>Measures taken/current situation</i> | <i>Level of implementation and observations (to be completed by the Working Group on Enforced or Involuntary Disappearances)</i> |
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| | | <p>the case under Soviet legislation) under article 153 of the Code;</p> <p>(d) The pre-investigative check has resulted in allegations of torture not being registered, in practice, therefore, not formally investigated. The pre-investigative check allows law enforcement investigators time to look into a case before deciding whether or not to register it. This has been shown to affect torture victims, as during this period, alleged perpetrators or others can coerce victims into withdrawing their complaints;</p> <p>(e) The Code of Criminal Procedure allows pre-investigative checks for 10 to 20 days before a criminal case is initiated. Even though extending the pre-investigative check from 10 to 20 days is contingent on the presence of “exceptional” circumstances, the circumstances provided for by the Code are very broad and, as such, conducive to unwarranted and abusive application of the extension;</p> <p>(f) Pre-investigative checks were abolished under the 2017 Code on the grounds that they contributed significantly to violations of the rights and freedoms of victims. In addition, pre-investigative checks were seen as posing risks of corruption and manipulation of crime statistics. However, despite this, the 2021 amendments to the Code saw pre-investigative checks reinstated;</p> <p>(g) The main argument for the reinstatement of pre-investigative checks was that law enforcement bodies were overburdened by the introduction of notifiable offences, requiring a full criminal investigation in every case when a crime report was made;</p> <p>(h) NGO observations about the application of the 2021 Code indicate that pre-investigative checks are routinely used in relation to allegation of torture, effectively delaying the registration of criminal cases by up to 20 days, or indefinitely if no investigation is opened, in violation of the victims’ right to an effective and speedy investigation. After such checks, the majority of</p> | |

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| | <p>complaints are dismissed and criminal cases are not registered. The pre-investigative check also subjects victims to secondary victimization, because they may be required to undergo potentially invasive and traumatic questioning and forensic medical examinations, without being afforded the procedural status of a victim and without any guarantee that their case will be registered as a criminal case and fully investigated;</p> <p>(i) There is a need for further monitoring and analysis as to whether most allegations of torture are not registered following the pre-investigation checks, leading to no full, effective investigation;</p> <p>(j) In November 2022, after reviewing the third periodic report of Kyrgyzstan under the International Covenant on Civil and Political Rights, the Human Rights Committee, in its concluding observations, noted its deep concern at the amendments to the Criminal Code and the Code of Criminal Procedure, particularly the re-establishment of the pre-investigative stage, which limits the rights of the victim and the defendant. The Committee was further concerned about the high level of impunity that exists in cases of torture and ill-treatment of persons deprived of their liberty, and about the inadequate compensation provided to victims. The Committee was also concerned about continued reports of the extradition of individuals, despite credible reports of risk of torture. The Committee was further concerned at the State party's failure to conduct a thorough and effective investigation into a case of enforced disappearance;^e</p> <p>(k) The Committee recommended that the Code of Criminal Procedure be revised to ensure its full compliance with the Covenant and international standards. Secondly, it recommended that all allegations of torture and ill-treatment and enforced disappearance be promptly, impartially, thoroughly and effectively investigated, that perpetrators be prosecuted and victims provided with full reparation, including rehabilitation and adequate compensation. Thirdly, the Committee recommended that</p> | |

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| | <p>the absolute prohibition of refoulement under articles 6 and 7 of the Covenant be strictly enforced and that the State party exercise the utmost care in evaluating diplomatic assurances; ensure that appropriate, effective and independent post-transfer monitoring of individuals, who are transferred pursuant to diplomatic assurances, is in place; and refrain from relying on such assurances when the State party is not in a position to monitor effectively the treatment of such persons after their extradition, expulsion, transfer or return to other countries.^f</p> | |
| | <p>Public foundation Spravedlivost</p> | |
| | <p>The recommendation has been partially implemented:</p> | |
| | <p>(a) According to article 159.2 of the Code of Criminal Procedure, cases of enforced disappearance are investigated exclusively by investigators from the national security authorities;</p> | |
| | <p>(b) According to article 159.6 of the Code, cases of torture are investigated by both investigators of the national security authorities and the internal affairs authorities.</p> | |
| | <p>Other</p> | |
| | <p>(a) According to Law No. 102 of 25 July 2019 on the conditions of service in the law enforcement agencies of Kyrgyzstan, the State Committee for National Security is also a law enforcement agency;</p> | |
| | <p>(b) The amendments to the Code of Criminal Procedure of 28 October 2021 broadened the investigative jurisdiction of criminal cases into acts of torture. Currently, cases of torture can be investigated by investigators of both the national security authorities and the internal affairs authorities;</p> | |

| Recommendations ^a | Situation during the visit ^b | Measures taken/current situation | Level of implementation and observations (to be completed by the Working Group on Enforced or Involuntary Disappearances) |
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| (e) Ensure that legal provisions include an enforceable right for victims of enforced disappearance to receive full reparation, including compensation, satisfaction, restitution, rehabilitation and guarantees of non-repetition; | Paragraphs 10, 17, 18, 21, 31 | <p>(c) As a rule, an investigation into cases of torture is conducted by whichever of the two above-mentioned authorities the victim submitted the crime report to;</p> <p>(d) The investigation of criminal cases concerning enforced disappearance falls within the exclusive competence of the national security authorities, as was previously the case.</p> <p>Other</p> <p>If there are such cases, the prosecution will send them as torture-related cases to the State Committee for National Security. The issue is the quality of investigation and effective accountability.</p> <p>Government</p> <p>(a) According to the criminal legislation in force, a claim for moral damages can be filed in criminal cases, pursuant to article 99 of the Criminal Code;</p> <p>(b) Also worth mentioning is that chapter 17 of the Code of Criminal Procedure provides an exhaustive list of the grounds and conditions for compensation of damages;</p> <p>(c) According to the civil legislation, claims for moral damages are considered by general jurisdiction courts (trial courts), in line with the principles of reasonableness and fairness;</p> <p>(d) Thus, according to article 1028.2 of the Civil Code, the amount of compensation for moral damages is established by the courts, depending on the degree of physical and mental suffering of the victim and of the guilt of the perpetrator, where guilt is the ground for compensation. When defining the amount of compensation, the requirements of reasonableness and fairness shall be considered;</p> <p>(e) The nature of physical and mental suffering is assessed by the court based on the factual circumstances</p> | <p>The recommendation has not been implemented.</p> <p>The Working Group notes that during third cycle of the universal periodic review, the Government of Kyrgyzstan supported the recommendation to ensure due process and accountability in the administration of justice for victims of enforced disappearance, including by conducting open and thorough investigations into outstanding cases of disappearance.⁸ However, the legislation in force does not provide for an enforceable right of victims of enforced disappearance to receive full reparation, including compensation, satisfaction, restitution, rehabilitation and guarantees of non-repetition.</p> |

| Recommendations ^a | Situation during the visit ^b | Measures taken/current situation | Level of implementation and observations (to be completed by the Working Group on Enforced or Involuntary Disappearances) |
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| <p>(f) Ensure that the new legal guarantees on notification and registration are systematically implemented in practice, including by:</p> <p>(i) Conducting extensive training and awareness-raising activities on the</p> | <p>Paragraphs 18, 31, 33</p> | <p>which caused the mental suffering and the individual characteristics of the victim.</p> <p>OHCHR Regional Office for Central Asia</p> <p>Articles 132–135 of the new Code of Criminal Procedure include general legal provisions on compensation for moral damages and rehabilitation. Those articles do not, however, contain an explicit list of all the types of victims (including victims of enforced disappearance or victims of torture) that are entitled to such remedies.</p> <p>Public foundation Spravedlivost</p> <p>The recommendation is not implemented. The legislation, both civil and criminal, does not include legal provisions for the enforceable rights of victims of enforced disappearance.</p> <p>Other</p> <p>The legislation in force does not establish an enforceable right for victims of enforced disappearance to receive full redress, including compensation, satisfaction, restitution, rehabilitation and guarantees of non-recurrence.</p> <p>Other</p> <p>The domestic legislation does not contain provisions on the right of a victim of enforced disappearance to compensation, rehabilitation, and other guarantees. As the practice shows, if there is no direct reference to such a right in the law, the courts mostly deny it. At the same time, due to the absence of the relevant case law, it is hard to say for sure that victims will be able to realize their rights and guarantees.</p> <p>Government</p> <p>(a) According to article 145 of the Code of Criminal Procedure, once they have grounds to begin a pretrial procedure, the investigator and prosecutor shall without delay register the relevant information in the unified register of crimes. Refusal or concealment from</p> | <p>The recommendations have been partially implemented.</p> <p>The Working Group notes that, according to the information provided</p> |

| Recommendations ^a | Situation during the visit ^b | Measures taken/current situation | Level of implementation and observations (to be completed by the Working Group on Enforced or Involuntary Disappearances) |
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| <p>guarantees among legal professionals, law enforcement officials and the public;</p> <p>(ii) Informing all law enforcement officials that delays in notifications and the falsification of records will not be tolerated and that such delays may amount to the crime of enforced disappearance;</p> <p>(iii) Extending video registration;</p> <p>(iv) Systematically investigating all cases in which families have not been notified or in which registration records have been falsified and sanctioning perpetrators and consider providing free legal aid for use in such cases;</p> | <p>Paragraphs 12, 25, 27</p> <p>Paragraph 31</p> <p>Paragraphs 27, 29–31</p> | <p>registration of an appeal or report about a committed or impending crime, entails responsibility under the Criminal Code;</p> <p>(b) Hence, on all matters of violations of the Criminal Code and the Code of Criminal Procedure, prosecution officials conduct inter-agency consultations and meetings with the community to inform them that delays in notification and falsification of registration records are unacceptable and that such delays may amount to the crime of enforced disappearance;</p> <p>(c) Furthermore, in order to prevent potentially unlawful actions by law enforcement agents, administrative buildings are equipped with closed-circuit television cameras both inside and along their perimeter;</p> <p>(d) The course on criminal law taught to all categories of students of the educational facilities of the Ministry of the Interior includes the topic of enforced disappearance in accordance with article 404 of the Criminal Code;</p> <p>(e) According to article 13 of Law No. 91 on legal aid guaranteed by the State, citizens of Kyrgyzstan and foreign citizens, stateless persons and refugees have the right to receive qualified legal aid in criminal and other proceedings;</p> <p>(f) Qualified legal aid in criminal cases is provided to suspects, accused persons, convicts, persons who have been acquitted, victims, witnesses aged under 18 and persons brought to account for offences they have committed;</p> <p>(g) Suspects, accused persons, convicts, persons who have been acquitted and victims are provided with qualified legal aid unless their income is 60 times higher than the minimum wage, annually defined by the Law on the Republican Budget, except for cases referred to in part 4 of article 13. Income is calculated for the period of 12 months preceding the request for qualified legal aid;</p> | <p>by the Government, there is relevant legislation in place and the necessary educational and training infrastructure. However, the information provided by other stakeholders indicates that the existence of this infrastructure does not necessarily mean that it is being used to conduct training of relevant actors on notification and registration guarantees.</p> <p>Furthermore, there are reports of a persisting practice of unregistered detention, lasting for hours, during which detainees are not provided with access to a lawyer. There are also reports that lawyers trying to locate persons subjected to unregistered detention often experience obstacles to entering the premises of the investigating authorities. The Working Group does not possess information on whether such cases are being investigated and prosecuted.</p> <p>Similarly, even though there are reports of the use of video registration, there is no information as to whether such recordings have been examined by the judges who review complaints on procedural violations committed during arrests. The Working Group is also concerned about information provided by civil society that video registration is not working and can be easily deleted, and that interested parties do not have access to those recordings.</p> |

| Recommendations ^a | Situation during the visit ^b Measures taken/current situation | Level of implementation and observations (to be completed by the Working Group on Enforced or Involuntary Disappearances) |
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| | <p>(h) Irrespective of income, qualified legal aid is provided to:</p> <ul style="list-style-type: none"> (i) Persons in cases of arrest; (ii) Suspects, accused persons, convicts and persons who have been acquitted of committing particularly serious crimes; (iii) Persons with disabilities in groups I and II; (iv) Persons with psychological disorders; (v) Great Patriotic War veterans and persons equated to them; (vi) Children; (vii) Victims of domestic violence; (viii) Single parents; (ix) Conscripted soldiers (compulsory military service); (x) Elderly persons institutionalized in social institutions; (xi) Foreign citizens, stateless persons, refugees; (xii) Victims of trafficking in persons; (xiii) Persons, whose identity has not been established by the prosecution authorities; (xiv) In other cases, as provided for in criminal procedure legislation; <p>(i) For witnesses aged under 18, qualified legal aid in criminal cases is provided by lawyers who have undergone specialized training.</p> | |
| | <p>Other</p> <p>(a) Based on publicly available information, in several individual cases journalists, media workers and civic activists were detained and taken to the premises of the</p> | |

| <i>Recommendations^a</i> | <i>Situation during the visit^b Measures taken/current situation</i> | <i>Level of implementation and observations (to be completed by the Working Group on Enforced or Involuntary Disappearances)</i> |
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| | <p>law enforcement authorities, but their relatives were not informed of their whereabouts. Their lawyers spent hours trying to ascertain the whereabouts of their clients. Such detained persons would first be interrogated as witnesses and many hours later would be officially detained;</p> <p>(b) Reportedly, many of the persons detained in the past two years have been subjected to arbitrary unregistered detention and, having been de facto deprived of their liberty, were not immediately informed of the reasons for their detention;</p> <p>(c) There are also reports that such individuals were forcibly taken for questioning as witnesses, often without prompt access to a lawyer of their choice. As a witness, a person cannot refuse to answer questions during interrogation and is not covered by the right not to provide self-incriminating information. Protocols regarding detention as suspects/accused have been drafted hours after the actual arrest and lawyers and relatives have only been notified with major delays. There are also reports that lawyers often experience obstacles when trying to ascertain the whereabouts of their clients and when they attempt to enter the premises of the investigating authorities;</p> <p>(d) There is no information on whether such cases of unregistered detention are investigated;</p> <p>(e) In the case of the 11 journalists and media workers who were detained in the early morning of 16 January 2024, they were only officially registered as suspects/accused after 9 p.m. that day. Judges dismissed lawyers' appeals concerning the procedural violations. The prosecutors did not react to these reported violations;</p> <p>(f) As observed during trial monitoring, investigative judges and courts of appeal did not react to the complaints of defence lawyers who pointed out procedural violations during the hours of unregistered detention of their clients. Judges proceeded to sanction pretrial detention and found</p> | |

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| | <p>that the detentions were lawful, ignoring the arguments of the defence lawyers;</p> <p>(g) Video registration is reportedly used, including through body cameras worn by police and national security officers during arrests and searches of premises. However, there is no information as to whether such recordings have been examined by the judges who review complaints on procedural violations committed during arrests. One case related to the search of the office of the online media outlet, 24.kg, on 15 January 2024, after which three members of the management were forcibly taken for questioning as witnesses to the State Committee for National Security. Bishkek City Court dismissed their lawyer's motion to review the footage of the search, as part of the lawyer's appeal against the actions of officials of the Committee during the search (including obstruction of access to defence lawyers).</p> <p>Public foundation Spravedlivost</p> <p>The recommendation has not been implemented:</p> <p>As far as recommendation (f) (i) above is concerned, there is no information from the State;</p> <p>As far as recommendation (f) (ii) is concerned, there is no information;</p> <p>As far as recommendation (f) (iii) is concerned, video recording is being used but not widely and the legal provisions are not regulated;</p> <p>As far as recommendation (f) (iv) above is concerned, it has not been implemented.</p> <p>Other</p> <p>(a) There is no information as to whether the curricula and educational programmes include the issues related to guarantees of notification and registration;</p> | |

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| (g) Fully implement the recommendations made by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading | Paragraph 32 | <p>(b) There is no information on whether law enforcement officers are informed about this matter;</p> <p>(c) The practice of video registration is insufficient and requires expansion;</p> <p>(d) There is no established practice of effective investigation of cases of failure to notify or falsify registration records, or of those responsible being duly punished;</p> <p>(e) Article 13 of Law No. 91 on legal aid guaranteed by the State establishes a wide range of persons who are entitled to receive qualified legal assistance in the field of criminal and other proceedings. Upon application, the specified list of persons should be provided with free legal assistance, including in connection with investigations of cases of failure to notify or falsify registration records.</p> <p>Other</p> <p>(a) As far as recommendation (f) (i) above is concerned, training and awareness-raising activities are not conducted, there are no experts or trainers and no training modules have been developed;</p> <p>(b) As far as recommendation (f) (ii) is concerned, there is a need to develop short video courses, by order of the Minister of the Interior, to be included in the professional development courses;</p> <p>(c) As far as recommendation (f) (iii) is concerned, the video registration devices are not working, relevant videos can easily be deleted and the Safe City system is working selectively for the benefit of the law enforcement authorities. Furthermore, there is no access to such records for interested parties.</p> <p>Government</p> <p>The recommendations made by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or</p> | The recommendation is only partially implemented. |

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| Treatment or Punishment following its 2018 visit; | | Degrading Treatment or Punishment were reviewed and the relevant work was carried out. | |
| | | Other | |
| | | (a) In September 2018, the Subcommittee made its second visit to Kyrgyzstan, following which conclusions and recommendations were sent to the Government; | According to the National Centre of Kyrgyzstan for the Prevention of Torture, of 73 recommendations made by the Subcommittee to the Government of Kyrgyzstan only 11 per cent have been partially implemented, 56 per cent are in the process of implementation and 30 per cent remain unimplemented. |
| | | (b) The analysis of the implementation of the recommendations sent by the Subcommittee following its visit to Kyrgyzstan in 2018 revealed that of 73 recommendations it made, 3 per cent were implemented, 11 per cent were partially implemented, 56 per cent are in the process of implementation and 30 per cent remain unfulfilled to date; | |
| | | (c) Among the unimplemented recommendations, the following should be noted: | |
| | | (i) The Government (Cabinet of Ministers) has not officially published the report of the Subcommittee; | |
| | | (ii) Up to now, there are functioning cells located in the basement/basement premises in temporary detention facilities, pretrial detention centres and correctional colonies. | |
| | | OHCHR Regional Office for Central Asia | |
| | | In March 2024, the media reported on the concerns raised by the lawyers of the defendants in the so-called Kempir-Abad case regarding their clients being moved from one cell to another and being kept for extended periods of time in basement cells at the pretrial detention centre SIZO-1 in Bishkek. While the authorities have announced their plans to move SIZO-1 to a new building outside the city, in the meantime pretrial detainees, many of whom have been in detention for more than a year, are subjected to inhumane conditions. | |

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| (h) Undertake further efforts to search for those missing from the southern regions since 2010 and complete the identification of remains; | Paragraphs 8, 11, 34, 35, 43 | <p data-bbox="943 272 1285 296">Public foundation Spravedlivost</p> <p data-bbox="943 320 1559 520">The recommendation is not implemented. An analysis of the implementation^c of recommendations following the Subcommittee's visit to Kyrgyzstan in 2018 revealed that of 73 recommendations, 3 per cent were implemented, 11 per cent were partially implemented, 56 per cent are in the process of implementation and 30 per cent remain unimplemented.</p> <p data-bbox="943 547 1077 571">Government</p> <p data-bbox="943 595 1559 762">(a) In the night of 10 to 11 June 2010 in the southern region of the country, mass disorder broke out, due to inter-ethnic tensions between persons of Kyrgyz and Uzbek nationality. This was accompanied by violence, rioting, the destruction of property, the use of firearms and armed confrontation with government agents;</p> <p data-bbox="943 786 1559 898">(b) The epicentre of the inter-ethnic conflict was in the downtown part of the city of Osh, in Kara-Suu in the Osh region, in the city of Jalalabad and in the villages of Bazar-Korgon and Suzak in the Jalalabad region;</p> <p data-bbox="943 922 1559 1058">(c) The law enforcement agencies launched 5,642 criminal cases, 13 cases were closed based on the results of investigations, 3,919 cases were suspended, 1,391 cases were merged and 319 cases were sent to the courts;</p> <p data-bbox="943 1082 1559 1201">(d) As concerns the suspended cases, based on the written instructions of supervising prosecutors, the investigators took criminal/law enforcement intelligence measures aimed at solving the alleged crimes;</p> <p data-bbox="943 1225 1559 1305">(e) Since June 2010, the Ministry of the Interior has been working daily on the identification of corpses and searching for missing persons and perpetrators;</p> <p data-bbox="943 1329 1559 1433">(f) According to the statistics, 157 persons went missing as a result of the mass disorder in the southern region, of which 137 were identified and 20 remain missing. Unidentified corpses related to the period of the</p> | <p data-bbox="1581 595 2002 651">The recommendation has been partially implemented.</p> <p data-bbox="1581 675 2002 1018">The Working Group notes the information provided by the Government, according to which the investigations of the events that took place in 2010 and the search activities for those disappeared are ongoing. However, the information is statistical and does not allow for conclusions to be drawn as to whether all possible efforts have been made to locate the disappeared persons and complete the identification of remains.</p> |

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| (i) Ensure effective implementation of the principle of non-refoulement with respect to individuals, including those arriving in an irregular manner, in cases where there are substantial grounds to believe that, if deported or refused entry, they may be at risk of enforced disappearance; | Paragraphs 13, 36–39 | <p>riots in 2010 numbered 465, the identities of 446 were established but 19 remain unidentified. In relation to crimes related to the events of June 2010, 153 perpetrators were on a wanted list, of whom 118 were detained.</p> <p>Public foundation Spravedlivost</p> <p>The recommendation is not implemented and there is no information.</p> <p>Other</p> <p>No efforts have been made on the part of the Government, and none are envisaged for the future, as it will affect the political careers of members of the Government.</p> <p>Government</p> <p>(a) According to international principles and conventions, the principle of non-refoulement is applied to both asylum-seekers and refugees;</p> <p>(b) Such persons cannot be subject to refoulement or returned to the borders of territories where their lives or freedom will be jeopardized because of their race, religion, citizenship, affiliation with a certain social group, or political views, irrespective of whether they receive official refugee status, as well as persons with regard to whom there are reasonable grounds to believe that they might fall victim to torture as defined in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;</p> <p>(c) Police officers must adhere to the principle of non-refoulement;</p> <p>(d) According to the Convention relating to the Status of Refugees the aforementioned persons cannot be stopped from crossing a border;</p> <p>(e) According to article 7 of the Law on External Migration, entry into Kyrgyzstan by a foreign citizen or a stateless person is not allowed on the following grounds:</p> | <p>The recommendation has been partially implemented.</p> <p>The principle of non-refoulement is integrated into the domestic legislation of Kyrgyzstan. Article 12 of the Law on Refugees enshrines the principle of non-refoulement. The principle applies to refugees who, according to article 1 of the law, are not citizens of Kyrgyzstan and apply to Kyrgyzstan to recognize them as refugees; who are outside the country of their citizenship or place of permanent residence due to a well-founded fear of becoming victims of persecution based on race, religion, nationality, political belief or membership in a particular social group, as well as a real danger of being persecuted in armed and ethnic conflicts and who, due to such fears, cannot or do not want to take advantage of the protection of their country.</p> |

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| | <p>(i) In the absence of a visa, passport or equivalent document;</p> <p>(ii) In the interest of ensuring the security of the State or the protection of public order;</p> <p>(iii) If they pose a threat to health or the protection of the rights and interests of citizens and other persons residing in Kyrgyzstan;</p> <p>(iv) If during a previous stay, it was established that they had violated the laws of Kyrgyzstan;</p> <p>(v) If they provided false information or submitted false documents when requesting entry to Kyrgyzstan;</p> <p>(vi) On other grounds provided for in the legislation of Kyrgyzstan;</p> <p>(f) Refusal of entry can be appealed in accordance with the procedures established by the legislation of Kyrgyzstan.</p> <p>Other</p> <p>During consideration of applications received, the problems in the law enforcement practice of issuing a certificate of registration of refugee status have been identified. The mechanism for receiving an application in accordance with the law provides for the personal participation of an employee of the Ministry of Labour, Social Security and Migration when receiving an application from a citizen wishing to obtain refugee status, while if the citizen is in a closed institution, the permission of the investigator or judge who considered the case against them is required to admit the employee of the Ministry to that closed institution. In practice it has not yet been possible to obtain such permission.</p> <p>Other</p> <p>(a) The principle of non-refoulement is not consistently upheld by the authorities;</p> | <p>However, the Working Group notes that, despite the obligations under international refugee law and the domestic legislation in force, the principle of non-refoulement is not always duly enforced. Based on bilateral agreements, Kyrgyzstan has extradited asylum-seekers, including human rights defenders, to Belarus, Kazakhstan, the Russian Federation and Türkiye on the grounds that they were wanted there on criminal charges, despite reasonable grounds for believing that in those countries they would be subjected to torture, persecution and other human rights violations, including enforced disappearance.</p> <p>The Working Group is concerned that, prior to being handed over to the authorities of the country of their nationality, some asylum-seekers have reportedly been subjected to enforced disappearance.</p> |

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| | <p>(b) At least two individuals have been sent back to their countries of origin, despite their asylum requests. In April 2023, the authorities received suggestions on legislative amendments to the Code of Criminal Procedure that could ensure it was in compliance with the principle of non-refoulement, as enshrined in international refugee and human rights law;</p> <p>(c) During the period under review, at least four cases were publicly reported on when the Government of Kyrgyzstan transferred foreign nationals from its jurisdiction to neighbouring countries (Belarus, Kazakhstan, the Russian Federation and Türkiye). Three individuals with the status of asylum-seekers and one person with dual citizenship, including that of Kyrgyzstan, but whose Kyrgyz citizenship was revoked on the grounds that it had allegedly been granted in violation of national law, were subjected to enforced disappearance, kidnapping and extradition to their countries of origin;</p> <p>(d) Such transfers and extradition are allegedly conducted on the basis of existing mutual agreements between Kyrgyzstan and other States (Belarus, Kazakhstan, the Russian Federation and Türkiye) on the extradition and prosecution of persons who have committed crimes:</p> <p>(i) In May 2018, a Kazakh blogger who created video materials on human rights violations in his country was detained in Bishkek by officials of the State Committee on National Security at the request of the Office of the Prosecutor General of Kazakhstan. In June, the Oktyabrskiy district court of Bishkek found the decision of the Office of the Prosecutor General of Kyrgyzstan to extradite the blogger to Kazakhstan lawful. On 26 June 2018, the blogger was extradited without waiting for an appeal or completion of the asylum procedure;</p> <p>(ii) On 31 May 2021, the head of an educational network in Kyrgyzstan, who was a dual citizen of Kyrgyzstan and Türkiye, disappeared in the city of</p> | |

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| | <p>Bishkek and reappeared a month later in Türkiye. The victim told his lawyer in Türkiye that he had been kidnapped by three Kyrgyz men and blindfolded. The men facilitated his transfer from Kyrgyzstan. According to his lawyers, the victim was tortured for 35 days and his arm was broken. The Office of the Military Prosecutor in Kyrgyzstan has reportedly opened an investigation into the trafficking of the victim. On 17 June 2023, it was reported that the Supreme Criminal Court in Ankara had sentenced the victim to 21 years in prison for terrorism. He was known for his affiliation with opposition parties in Türkiye;</p> <p>(iii) The media has reported the disappearance of asylum-seekers;</p> <p>(iv) In December 2023, an asylum-seeker from the Russian Federation was extradited to his country of origin. In June 2023, during his detention in Kyrgyzstan, he reportedly applied for asylum to the Ministry of Labour, Social Protection and Migration through his lawyer. However, his application was not officially registered, as the Ministry staff did not have access to him in detention. His extradition in December 2023 appears to be in violation of the principle of non-refoulement;</p> <p>(v) In October 2023, another asylum-seeker from the Russian Federation was transferred to the Russian Federation. He arrived in Kyrgyzstan in January 2023 and in July 2023, he was detained in accordance with an extradition request from the Russian Federation. In September 2023, the Office of the Prosecutor General of Kyrgyzstan refused to extradite him. He was immediately released from detention and two days later his individual application for asylum was registered by the Ministry of Labour, Social Security and Migration. Less than a month later, while his asylum application was still pending, he was picked up, reportedly by Kyrgyz national security officials, from his temporary residence in Bishkek, taken to the airport and handed</p> | |

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| | <p>over to Russian law enforcement officials, who accompanied him back to the Russian Federation. In early June 2023, another person was extradited to the Russian Federation, reportedly due to his involvement in burning down a military recruitment centre in the Sverdlovsk region. It is unclear whether he had filed an application for refugee status in Kyrgyzstan prior to being extradited. Also in June 2023, Kyrgyzstan extradited a female political activist, who was on a Russian international “wanted list” for allegations of being involved in the creation of an “extremist community”. She arrived in Kyrgyzstan in October 2022 and applied for asylum. She was extradited pending review of her application for refugee status in Kyrgyzstan;</p> | |
| | <p>(vi) In April 2023, a citizen of Belarus (and of Ukraine), who had applied for asylum and was undergoing refugee status determination procedures in Kyrgyzstan, was extradited to Belarus.ⁱ Given that the asylum application had not been reviewed at the time of extradition, the extradition constitutes a violation of the non-refoulement principle enshrined in the Kyrgyz national legislation, as well as in international treaties;</p> | |
| | <p>As reported by the founder of human rights project Kovcheg, Anastasia Burakova, Kyrgyzstan has become an unsafe jurisdiction for anti-war Russian relocators;^j</p> | |
| | <p>(e) Details of proposals to bring legislation into line with international standards were shared with the authorities in 2023. It is unclear whether they will be taken into account in the planned review of the Code of Criminal Procedure. New amendments to the Code are being drafted by the Presidential Administration in a not fully transparent closed format and the draft is not yet available to the public;</p> | |
| | <p>(f) Suggestions:</p> <p>(i) Taking into account the situation of refugees and the principle of confidentiality, it is prohibited to inform</p> | |

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| | <p>the country of origin of refugees about their situation. It is therefore proposed that article 102, part 2, of the Code of Criminal Procedure on notifying a suspect's relatives and lawyer about the detention, and article 528, part 6, on temporary detention, be amended and the requirement to inform the State (the Embassy or a consulate office) of a refugee's or asylum-seeker's country of origin nationality about his or her detention removed;</p> <p>(ii) Article 114 of the Code of Criminal Procedure outlines general rules relating to the detention of suspects. In particular, it limits access to a detained person and provides that meetings with suspects are possible only with the permission of the investigator. However, the national legislation of Kyrgyzstan establishes the right to asylum (article 52.2 of the Constitution). It provides that asylum-seekers must have a real opportunity to file an application for asylum (article 4.1 of the Law on Refugees). As all foreign citizens have the right to apply for asylum, including during detention, it is recommended that article 114, parts 7 and 8, of the Code have added to them a requirement to provide detainees who apply for asylum with immediate access to the State authorities authorized to consider refugee applications so that they can file an application for refugee status in Kyrgyzstan. Such access should not be dependent on the approval of an investigator;</p> <p>(iii) In accordance with the principle of non-refoulement, it is recommended that paragraph 4 of part 2 of article 532 of the Code be moved to part 1 of the same article, in order to make obligatory (rather than optional) the guarantee of non-removal of asylum-seekers. If the authorized body has issued a certificate of registration of an application for refugee status, it is recommended that the mandatory and optional grounds for refusing an extradition request be modified in accordance with the Model Treaty on Extradition, which</p> | |

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| | <p>was adopted by the General Assembly in resolution 45/116;</p> <p>(g) The following references to international standards were shared with the authorities:</p> <p>(i) The General Assembly has urged Member States to use the Model Treaty on Extradition, which was adopted for effective cooperation among Member States. Article 3 of the Model Treaty specifies the mandatory grounds for refusing extradition:</p> <ul style="list-style-type: none"> • If the person whose extradition is requested has been or would be subjected in the requesting State to torture or cruel, inhuman or degrading treatment or punishment, or if that person has not received or would not receive the minimum guarantees in criminal proceedings; • If the requested State has substantial grounds for believing that the request for extradition has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin, political opinions, sex or status, or that that person's position may be prejudiced for any of those reasons; <p>(ii) Article 4 of the Model Treaty also provides for optional grounds for refusing extradition, in particular with reference to humanitarian reasons:</p> <ul style="list-style-type: none"> • If the requested State, while also taking into account the nature of the offence and the interests of the requesting State, considers that, in the circumstances of the case, the extradition of that person would be incompatible with humanitarian considerations in view of age, health or other personal circumstances of that person; <p>(h) Arbitrary detention. During the period under review, there have been media reports about a growing trend of what appears to be arbitrary detention of activists</p> | |

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| | <p>and businesspersons by the law enforcement authorities and the State Committee on National Security. Examples include the following:</p> <ul style="list-style-type: none"> • An activist who was detained by unknown people in the summer of 2023. His relatives could not establish his whereabouts for more than an hour. Later it became known that police officers had taken him for interrogation as a part of a criminal case; • According to media reports, several prominent businesspersons were detained incommunicado after being arrested by officials of the State Committee on National Security. The most recent case relates to a person who was taken by officials of the State Committee on National Security to an unknown place and detained incommunicado for eight days. <p>Other</p> <p>(a) As part of the implementation of the principle of non-refoulement, in paragraph 115 of its human rights action plan for the period 2022–2024 (as amended by order No. 428-p of the Cabinet of Ministers of Kyrgyzstan, dated 17 July 2023), the Government sets the task of refusing extradition, deportation and expulsion in the event of reports of threats of torture and ill-treatment or enforced disappearance in another country;</p> <p>(b) Responsibility for enforcement rests with the Office of the Prosecutor General. There is no information about the measures taken to fulfil this task or the results achieved;</p> <p>(c) Meanwhile, the practice of extradition continues. According to media reports, in March 2023, upon an official request by Belarus, a person who had previously appealed to the President with a request not to extradite him was extradited from Kyrgyzstan. According to the victim, he was persecuted for being the administrator of an Internet resource that published opposition materials in</p> | |

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| (j) Conduct training and awareness-raising sessions for government officials on the non-refoulement principle; | Paragraphs 13, 36–39 | <p>Belarus. The Office of the Prosecutor General considered the decision to extradite him to be lawful.^k</p> <p>Government</p> <p>(a) The training centre of the Office of the Prosecutor General conducts various training exercises and workshops on a regular basis on various topics, including on the unacceptability of refoulement;</p> <p>(b) The course run by the Ministry of the Interior on criminal procedures includes a topic on international cooperation in criminal proceedings (extradition requests and the procedure for reviewing coerced extraditions).</p> | <p>According to the Government, training exercises have been conducted, which points to a partial implementation of the recommendation. However, as refoulement appears to still be applied in Kyrgyzstan, the training does not seem to correspond to a change in practice.</p> |
| (k) Ensure that all the views, recommendations and conclusions of international human rights bodies are implemented, including in relation to the case of Mr. Askarov; | Paragraph 10 | <p>OHCHR Regional Office for Central Asia</p> <p>Through its national NGO partner, the Legal Clinic Adilet, the Office of the United Nations High Commissioner for Refugees (UNHCR) has been providing periodic training sessions to State counterparts.</p> <p>Government</p> <p>Azimzhan Askarov was sentenced to life for organizing mass disorders and complicity in the killing of a police officer, and was serving his sentence in penitentiary facilities. All possible questions regarding Mr. Askarov were reviewed at the court sessions and the Office of the Prosecutor General expressed its opinions.</p> <p>Public foundation Spravedlivost</p> <p>The recommendation has not been implemented.</p> <p>Other</p> <p>(a) According to alternative reports and the concluding observations of the Committee against Torture, adopted after the review of the third periodic report of Kyrgyzstan in November 2021,^l previous recommendations by the Committee regarding the need to conduct proper investigations into allegations of torture have not yet been implemented by the State. The problems of ineffective</p> | <p>The recommendation has only been partially implemented.</p> <p>The implementation of views, recommendations and conclusions of international human rights bodies remains low to non-existent.</p> <p>As far as the case of Mr. Askarov is concerned, the investigation into his death has not been independent and impartial, but has been marred by procedural violations, was protracted and lacked effectiveness.</p> |

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| | <p>investigation into allegations of torture and ill-treatment, the failure to prosecute the perpetrators and their consequent impunity remain acute;</p> | |
| | <p>(b) On 17 July 2023, the Cabinet of Ministers approved the national action plan on human rights for the period 2022–2024. Chapter 17 of the plan is dedicated to the eradication of torture and foresees a number of actions, including the adoption of a separate action plan on the implementation of the above-mentioned concluding observations of the Committee against Torture. The action plan on the implementation of the Committee’s concluding observations has not yet been endorsed by the Coordination Council on Human Rights (chaired by the First Deputy Chair of the Cabinet of Ministers), a body that functions as the national mechanism for implementation, reporting and follow-up;</p> | |
| | <p>(c) Implementation of the Views of the treaty bodies identifying violations related to arbitrary detention, torture and ill-treatment, unfair trials and non-refoulement remains at a low level. According to an analysis prepared by the public foundation Spravedlivost in 2021 and the Coalition Against Torture, the Human Rights Committee recognized human rights violations in more than 40 individual cases and the Committee on the Elimination of Discrimination against Women recognized human rights violations in 1 case that concerned a woman who had been kept in detention in violation of national and international human rights standards. Of more than 40 Views, only 2 were recognized as “implemented/completed” by the Human Rights Committee. Further research is required to see if any other Views were recognized as “implemented/completed”. The overall rate of implementation of Views is perceived by NGOs as very low;</p> | |
| | <p>(d) According to information from the Coalition against Torture from December 2023, of approximately 47 Views issued by the treaty bodies on Kyrgyzstan, only</p> | |

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| | | <p>5 (4 by the Human Rights Committee and 1 by the Committee on the Elimination of Discrimination against Women) have been partially implemented. In those five cases, following civil suits filed by lawyers representing the victims or their relatives, the courts have ruled that monetary compensation be awarded, the amount of which has varied, but in all cases was not deemed adequate by the lawyers. The largest amount of compensation paid out to date was 300,000 soms (less than \$3,500) for the torture and death of Rakhmonberdi Ernazarov in a police temporary detention facility;</p> <p>(e) On 25 July 2020 human rights defender, Azimzhan Askarov, died in the hospital of correctional colony No 47. According to the medical report, the cause of Mr. Askarov's death was acute respiratory insufficiency, which, according to the investigation, developed against the background of double pneumonia;</p> <p>(f) According to human rights movement Bir Duino-Kyrgyzstan, on 26 July 2020 pretrial proceedings were initiated in relation to the death of Mr. Askarov. Those proceedings were carried out by the same authority that was overseeing his imprisonment, which violated the principles of independence and impartiality of the investigation. On 28 May 2021 the proceedings were terminated for the lack of corpus delicti;</p> <p>(g) To date, the authorities have still not conducted an independent and impartial investigation into the death of Mr. Askarov. The investigations conducted into his death so far have been marred by procedural violations and have been slow and ineffective.</p> | |

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| | | <p>Other</p> <p>The practice of implementing the recommendations and decisions of international human rights bodies is not ensured at the proper level. For example, as of June 2023, the Human Rights Committee had adopted 49 decisions, of which 41 recognized a violation of human rights by Kyrgyzstan. Only 2 decisions (4.9 per cent) of the 41 were recognized as executed, including one as partially executed. For the remaining 39 decisions, no effective enforcement measures have been taken.</p> | |

^a See [A/HRC/45/13/Add.2](#).

^b Ibid.

^c Ibid.

^d [A/HRC/44/4/Add.1](#), para. 8.

^e [CCPR/C/KGZ/CO/3](#), para. 29.

^f Ibid., para. 30 (a)–(e).

^g [A/HRC/44/4/Add.1](#), para. 34.

^h Annual report of the national preventive mechanism of Kyrgyzstan, available at [Ezhegodnyj-doklad-za-2022-god-na-ofitsialnom-yazyke.pdf](#) (in Russian), p. 18, subparagraph (e).

ⁱ See <https://www.unhcr.org/centralasia/en/20689-unhcr-alarmed-over-asylum-seeker-extradition-from-kyrgyzstan.html>.

^j Russians who take an anti-war stance are recommended not to visit Kyrgyzstan. See <https://vesti.kg/obshchestvo/item/121811-vystupayushchim-protiv-vojnny-rossiyanam-rekomenduyut-ne-ezdit-v-kyrgyzstan.html> (in Russian).

^k See <https://rus.azattyk.org/a/32311551.html> (in Russian).

^l [CAT/C/KGZ/CO/3](#).